

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MARCUS JENKINS, )  
                        )  
Plaintiff,           )  
                        )  
-vs-                 )              No. 19-673-GCS  
                        )  
J.B. PRITZKER, et al., )  
                        )  
Defendants.          )

**ANSWER AND AFFIRMATIVE DEFENSES**

Now Comes the Defendant, J.B. PRITZKER, by and through his attorney, KWAME RAOUL, Attorney General of the State of Illinois, and for his Answer and Affirmative Defenses to Plaintiff's First Amended Complaint [d/e 32], ] in accordance with the Southern District Administrative Order No. 244 and this Court's merit review [d/e 11]<sup>1</sup>, and this Court's Order Granting Plaintiff Motion for Leave to File [d/e 31], states as follows:

**The Complaint**

Plaintiff makes the following allegations in his Complaint (Doc. 1): Illinois Public Act 100-1182 was signed into law on April 1, 2019 (Doc. 1, p. 8). The Act established a new parole system for youth offenders under the age of twenty-one (21) (*Id.*). The Act does not apply retroactively (*Id.*). Although youths sentenced after June 1, 2019, will benefit from the Act's provisions, including more parole opportunities, those individuals who were sentenced as youths prior to the Act do not benefit from the new parole opportunities. Plaintiff alleges that he is one such inmate as he was sentenced at the age of 16 (*Id.* at p. 9). He alleges that the new Act violates his equal protection rights because it treats juveniles like himself, who were sentenced prior to the Act,

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<sup>1</sup> Pursuant to Administrative Order No. 244, the claims and issues will be limited to those identified in the merit review order on the complaint. [d/e 11].

differently from those juveniles sentenced after the Act without any rational justification for the different treatment (*Id.* at pp. 9-10). He also alleges that Act constitutes cruel and unusual punishment (*Id.*). He sues all of the defendants in their official capacities.

**RESPONSE:** Defendant admits that Illinois Public Act 100-1182 was signed into law on April 1, 2019. Defendant admits that, in part, Illinois Public Act 100-1182 enacted a new statute, 730 ILCS 5/5-4.5-115, regarding parole review of persons under the age of twenty-one at the time of the commission of the offense. 730 ILCS 5/5-4.5-115. Defendant admits that 730 ILCS 5/5-4.5-115 applies to persons sentenced after June 1, 2019. 730 ILCS 5/5-4.5-115. Defendant denies that Plaintiff's constitutional rights were violated in any way.

### **Discussion**

Based on the allegations in the Complaint, the Court finds it convenient to divide the *pro se* action into the following two counts:

**Count 1:** Public Act 100-1182 violates Plaintiff's equal protection rights under the Fourteenth Amendment.

**RESPONSE:** Defendant denies that Plaintiff's Fourteenth Amendment right to equal protection has been violated in any way by Public Act 100-1182 and/or 730 ILCS 5/5-4.5-115.

**Count 2:** Public Act 100-1182 is unconstitutional because it constitutes cruel and unusual punishment under the Eighth Amendment.

**RESPONSE:** Defendant denies that Plaintiff's Eighth Amendment rights have been violated in any way by Public Act 100-1182 and/or 730 ILCS 5/5-4.5-115. Defendant denies that Public Act 100-1182 and/or 730 ILCS 5/5-4.5-115 constitute cruel and unusual punishment in any way. Defendant denies Public Act 100-1182 and/or 730 ILCS 5/5-4.5-115. are unconstitutional.

### **Responses to Plaintiff's Requests for Relief**

Defendant denies Plaintiff is entitled to any relief whatsoever.

### **Jury Demand**

Defendant demands trial by jury.

**Affirmative Defenses**

**Eleventh Amendment Sovereign Immunity**

Plaintiff's claims for monetary damages against Defendant in his official capacity is precluded by the Eleventh Amendment, which bars an action for damages in federal court against a State or a State official sued in his official capacity.

**Injunctive Relief Barred**

To the extent Plaintiff is suing Defendant for declaratory relief or injunctive relief not intended to address ongoing violations, Plaintiff's requests for such relief are barred by the Eleventh Amendment, sovereign immunity, and the Prison Litigation Reform Act.

**Qualified Immunity**

At all times relevant herein, Defendant acted in good faith in the performance of his official duties and without violating Plaintiff's clearly established statutory or constitutional rights of which a reasonable person would have known.

WHEREFORE, for the above and foregoing reasons, Defendant respectfully requests that this Honorable Court deny Plaintiff any relief in this matter whatsoever and enter judgment in his favor.

Respectfully submitted,

J.B. PRITZKER,

Defendant,

KWAME RAOUL, Attorney General,  
State of Illinois,

Tara M. Barnett, #6327008  
Assistant Attorney General  
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Attorney for Defendant,

BY: s/ Tara M. Barnett  
Tara M. Barnett, #6327008  
Assistant Attorney General

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 26, 2020, the foregoing document, *Answer and Affirmative Defenses*, was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

NONE

and I hereby certify that on the same date, I caused a copy of same to be mailed by United States Postal Service, in an envelope fully prepaid and properly addressed, to the following participant:

Marcus Jenkins, R00902  
DIXON CORRECTIONAL CENTER  
2600 North Brinton Ave  
Dixon, IL 61021

Respectfully submitted,

By: s/Tara M. Barnett

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